

CRIMINAL APPEAL No.353 OF 1993

Against the judgment and order dated 14.10.1993, passed by Sri P.N. Yadav, Additional Sessions Judge, 1st, Patna in connection with Sessions Trial No. 128 of 1980.

1. GORAKH SINGH SON OF LALA SINGH
 2. PARMA SINGH, SON OF LATE SATRUHAN SINGH
 3. OM PRAKASH MAHTON, SON OF SHEONANDAN MAHTO
 4. ARJUN MAHTON, SON OF SRI KISHUN MAHTO
 5. GOPAL MAHTO, SON OF SRI KISHUN MAHTO
 6. SURAJ MAHTO, SON OF MATHUR MAHTON
- ALL RESIDENTS OF VILLAGE- NASRIGANJ, DANAPUR, P.S. DANAPUR, DISTRICT-
PATNA ----- Appellant

Versus

THE STATE OF BIHAR

----- Respondents

For the appellants :- Mr. Jyotindra Pratap Singh, Advocate

For the State :- Mrs. Indu Kumari Srivastava, A.P.P.

P R E S E N T

THE HON'BLE JUSTICE SMT. SHEEMA ALI KHAN

S.A. Khan, J.

Six appellants have filed this appeal against the judgment and order dated 14.10.1993 passed in Sessions Trial No. 128 of 1980 by which all the appellants have been sentenced to undergo R.I. for 3 months for an offence alleged to have been committed under Section 337 of the Indian Penal Code. Appellant no. 1 has also been convicted under Section 27 of the Arms Act and sentenced to undergo R.I. for 3 years.

The prosecution case is that on 21.12.1978

at about 8.30 p.m. the accused persons came to the house of the informant and it is alleged that one Ramratan Mahton (since dead) went to the roof of the house of accused Gorakh Singh and started abusing the informant and his family members. Ramratan Mahton got infuriated and started throwing bricks at the accused persons and it is said that Gorakh Singh opened a blank fire from his house. There was a commotion and several persons came at the place of occurrence.

On perusal of the evidence it appears that the injuries inflicted on P.Ws. 1 and 7 were simple in nature and the occurrence had taken place because there was some dispute with respect to purchase of land belonging to the informant.

Appellant No. 1 Gorakh Singh has remained in custody for about 3 months in this case. There is no injury to substantiate the allegation of firing and therefore, it has been submitted that the allegation that a blank fire was made by Gorakh Singh appears to be false and has been alleged in order to give a serious look to the case.

Therefore, I find that in the facts there is some amount of doubt with regard to the evidence regarding the allegation of firing by Gorakh Singh.

The Court below had also taken into consideration the proceedings under Section 145 and the fact that a title suit was also pending at the relevant time when the occurrence took place between the parties to indicate that there was a land dispute between the parties.

Taking all the evidence into consideration, I do not find that the case under Section 27 of the Arms Act is made out against Gorakh Singh. With respect to the allegation under Section 337 of the Indian Penal Code, this Court finds that there appears to be an exchange of hot words and abuses between the parties because of the land dispute as mentioned in paragraph 17 of the trial Court judgment. I therefore, uphold the conviction under Section 337 of the Indian Penal Code, however, modify the sentence to the period already undergone in view of the fact that occurrence took place as far back as in the year 1978. The appellants are discharged from the liabilities of their bail bonds.

The appeal is dismissed with the aforesaid modification in conviction and sentence.